

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

|  |   |                                   |
|--|---|-----------------------------------|
| <b>STERLING PETTWAY, III,</b>                | ) | <b>CASE NO. 1:19CV1044</b>        |
|  | ) |                                   |
| <b>Plaintiff,</b>                            | ) | <b>JUDGE CHRISTOPHER A. BOYKO</b> |
|  | ) |                                   |
| <b>vs.</b>                                   | ) |                                   |
|  | ) |                                   |
| <b>DETECTIVE LAWRENCE SMITH,<br/>ET AL.,</b> | ) | <b>OPINION AND ORDER</b>          |
|  | ) |                                   |
| <b>Defendant.</b>                            | ) |                                   |

**CHRISTOPHER A. BOYKO, J:**

This matter is before the Court on Plaintiff's Motion for Judgment on the Pleadings (ECF # 18) and Defendant Rekha Ujla's Motion to Dismiss. (ECF # 23). On May 13, 2020, the Magistrate Judge issued his Report and Recommendation, recommending the Court deny both Motions. No party filed an Objection to the Magistrate Judge's Report and Recommendation.

Plaintiff's Motion for Judgment on the Pleadings alleges Defendant Lawrence Smith's Answer was vague and insufficient as a matter of law. The Magistrate Judge held otherwise, finding Smith's Answer satisfied the pleading requirements set for in Fed. R. Civ. P. 8(b).

Defendant Ujla moved to dismiss for failure to prosecute, alleging that Plaintiff's

failure to provide an updated address as ordered by the Magistrate Judge warrants dismissal. The Magistrate Judge recommends denying Ujla's Motion because Plaintiff, acting *pro se*, was not completely unresponsive to the Court's Order. Plaintiff filed his Motion for Judgment on the Pleadings after the Court's order to update his address. The address on Plaintiff's filing showed the same address as his original notice of change of address. The Magistrate Judge recommends denying Ujla's Motion. Instead, the Magistrate Judge ordered Plaintiff to show cause why his case should not be dismissed for failure to prosecute. Since that order, Plaintiff failed to appear at a telephone conference and the Magistrate Judge allowed subsequent motions to dismiss which Defendants have filed. The Magistrate Judge has subsequently issued an additional Report and Recommendation, recommending dismissal for failure to prosecute. The objection period has not yet run on this latest R & R.

The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to review the matter independently. *Thomas v. Arn*, 474 U.S. 140, 149, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985).

The Court finds no error in the Magistrate Judge's Report and Recommendation recommending the Court deny both Plaintiff's and Defendant Ujla's Motions. Defendant Smith's Answer satisfies the pleadings requirements of Fed. R. Civ. P. 8(b). Furthermore, the Magistrate Judge has allowed additional motion practice on the issue of Plaintiff's failure to prosecute that is as yet unripe for ruling.

There being no objections and no errors in the Magistrate Judge's R &R, the Court adopts the same and denies both Motions.

IT IS SO ORDERED.

Date: August 25, 2020

/s/Christopher A. Boyko  
CHRISTOPHER A. BOYKO  
Senior United States District Judge